



MASTERS LAW GROUP
PLLC

A T T O R N E Y S

KENNETH W. MASTERS
SHELBY R. FROST LEMMEL

KARA R. MASTERS
OF COUNSEL

TELEPHONE
(206) 780-5033

FACSIMILE
(206) 842-6356

March 19, 2019

Mr. William D. Pickett
President
Washington State Bar Association
1325 Fourth Ave., Suite 600
Seattle, Washington 98101-2539

Re: Resignation as President of Washington State Bar Foundation, Effective March 31, 2019

Dear Bill:

I write with a heavy heart to offer my resignation as President of the Washington State Bar Foundation, effective March 31, 2019. I can no longer tolerate the actions of some members of the Board of Governors, and can no longer serve this organization while they go on unabated. As you know better than almost anyone, far too many terrible examples exist to name here. But I primarily must resign in protest of the secretive, unprincipled, and frankly inhuman manner in which the board summarily terminated the finest Executive Director of any organization whom I have ever known, Paula Littlewood.

As you know, I have continuously served the WSBA in various capacities for roughly 20 years. I first served on and chaired the Amicus Committee. At that time too, there were board members who felt they "knew better" than the rest of us volunteer members, the staff, and even Bar Counsel. While it was tough to take, it was nowhere near as bad as it is now, so I kept serving.

I next served on and ultimately chaired the Rules & Procedures Committee – for eight years. This was a great learning experience, and I will always cherish the friendships I made, and remember with pride the excellent work of that committee. Throughout my tenure on that committee, our work was trusted and respected by the then-Governors and the Supreme Court; we achieved some great things together. This was due, to a large extent, to the tireless dedication of the WSBA staff. Watching the good work of so many dedicated volunteer members and outstanding staff being diminished, distained, and disregarded by the board in recent years has been very disturbing.

I was then elected to the Board of Governors, where I served from 2012 to 2015. This was another great learning experience, where I again made friends among honorable and insightful colleagues. I was honored to chair the Disciplinary Selection and Personnel Committees, and to be

unanimously elected Treasurer. I also liaised with my beloved Rules Committee, and with the outstanding Escalating Cost of Civil Litigation Task Force (ECCL), among other duties.

Throughout all this time, the staff continued its outstanding service. But as a board, we were hardly perfect. We certainly made mistakes. But we listened, learned, and then tried to lead. We did not simply disregard colleagues who disagreed with us. Nor did we disregard, abuse, or secretly plot to oust staff who tried to steer us in the right direction. Nor did we fight with our Supreme Court, which has plenary authority over the practice of law under our Constitution. We knew our place.

One mistake I made was to reject some of the recommendations of the distinguished Governance Task Force. We had a strong and thoughtful board at that time, and I simply did not foresee the disasters that would befall the organization just a few years on. Others did. I now regret my lack of foresight, and I urge the Supreme Court to revisit its excellent recommendations, which could go far in addressing the structural problems we currently face. Had we adopted it wholesale then, we would not be in this mess now.

My next volunteer effort was perhaps the most rewarding of them all: chairing the ECCL Rules Drafting Taskforce. I was asked by one of your predecessors to help select 18 “Rules Geeks” to write rules implementing the Board of Governors’ recommendations regarding the ECCL’s Final Report – recommendations eight years in the making. We had judges from the Federal Court, the Court of Appeals, and the Superior Court, at least two lawyer-volunteers who recently became judges, four former chairs of the Rules Committee, and a host of dedicated, hardworking, and experienced litigators, not to mention the usual outstanding WSBA staff support, without whom none of us could accomplish much.

Because our goal was to create an even playing field for all citizens in our trial courts, this was a well-balanced group. For instance, the Washington State Association for Justice appointed Jane Morrow – their own Rules Chair – and the Washington Defense Trial Lawyers appointed Brad Smith, just two among many excellent and accomplished trial lawyers. For two years, these outstanding volunteers drafted, scrubbed, and thoroughly vetted (to many, many judges, lawyers, and other stakeholders) several rules proposals. Most significantly, they included rules mandating cooperation among attorneys in conducting discovery, in hopes of ending the ever-escalating costs of discovery sanctions, and reducing the ever-escalating costs of civil litigation.

As you well know, these cutting-edge proposals were received with a resounding thud at the Board of Governors, who quite clearly did not understand them—even though there had already been a prior “first reading,” and though these proposals were on for “action” at the September 2018 meeting. The myriad uninformed questions the Governors asked were disheartening, particularly from a board that routinely substitutes its “judgment” for that of the committees, task forces, and staff who come before it. And as is equally routine with this board, many months have gone by with no action on the proposals. As usual, this board “knows better” than the dozens of volunteer experts who brought these exciting ideas forward.

But the board’s failure to act on these proposals is nothing compared to its troubling recent actions. Reading in the Seattle Times that a Governor was accused of sexually harassing a staff member, that an outside investigator found the allegations credible, and that the board then “responded” by

elevating him to Treasurer, was astounding. Seeing him “temporarily” removed as Treasurer, only to be reinstated by a board that voted to say it had no authority to remove him in the first place, is unconscionable: it potentially exposes Bar Members to a retaliation suit from the very Governor accused of harassment. As a former Personnel Chair, I can tell you that this is not how allegations of sexual harassment should be handled. But of course, as a decent, experienced, and principled leader among lawyers, you already know that.

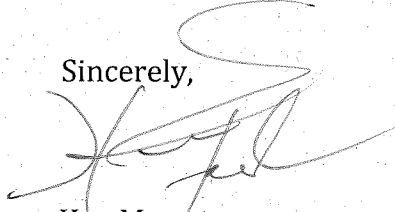
Paula Littlewood has served this organization with distinction for all of my years as a volunteer – and many more. She is nationally recognized as among the finest – if not hands-down the finest – Bar ED in the United States. She has long been in demand to travel internationally – on her own dime – to share her deep insights on the practice of law around the world. I have personally observed Presidents of the American Bar Association, leaders of the British, New South Wales, and several Canadian bars, and Bar Presidents and other Eds from around this country, speak of Paula with awe. She is not just the best bar ED, but the best ED I have ever had the honor to work beside. Or perhaps I should say, to learn from.

Why did the board dismiss a woman of her caliber? Amazingly, we don’t know. Such opacity regarding this momentous decision for our Bar is intolerable. In light of what Justices Madsen, Wiggins, and Johnson, recently wrote to the Bar, claims that we are going in a “new direction” – coming from Governors who have offered no new direction and no transition plan – leave the WSBA adrift, and dangerously close to running aground. At a time like this, heedlessly throwing overboard a great leader like Paula Littlewood – whose foresight regarding the broad trends in our profession has bordered on the miraculous – suggests the concerning absence of a moral compass.

I do not suffer under the illusion that my resignation will change anything. Nor do I relinquish this honored position – with its opportunities to support diversity and inclusion in the profession, citizens of moderate means, and active duty servicemen and servicewomen – with anything but profound regret. My wife and I have long supported diversity and inclusion and civil legal aid, and we will continue those efforts elsewhere. But listening to the staff speak during the last several BOG meetings regarding the utter lack of support – and even oppression – they have suffered under this board, leaves me with the overwhelming impression that my efforts, like theirs, are no longer welcome at the WSBA.

I wish you the very best in all you do, Mr. President. I salute you, Paula, the WSBA Executive Management Team, and the wonderful WSBA staff and volunteers.

I bid the WSBA farewell.

Sincerely,

Ken Masters

cc: Executive Director Paula Littlewood
Washington State Bar Foundation
Chief Justice Mary Fairhurst, Assoc. Chief Justice Charles Johnson,
& the Associate Justices of the Supreme Court
WSBA Counsel, Staff, and Governors
The Hon. Jamie Pedersen
Dean Annette Clark
Andrew Prazuch, Ex. Dir. King County Bar Assoc.
Paul Fjelstad, Kitsap County Bar
Editor, N.W. Lawyer